

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**NATIONAL ASSOCIATION FOR
GUN RIGHTS, and FOSTER ALLEN
HAINES,**

Plaintiffs,

V.

MICHELLE LUJAN GRISHAM, in
her official capacity as the Governor
of the State of New Mexico, and
PATRICK M. ALLEN, in his official
capacity as the Secretary of the New
Mexico Department of Health,

Defendants.

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CASE NO. 23-cv-771-DHU-LF

SUPPLEMENT TO MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiffs submit the following supplement to their motion for temporary restraining order (ECF 3).

I. The Attorney General Says the PHE Order is Unconstitutional

On September 12, 2023, New Mexico Attorney General Raúl Torrez issued the letter attached hereto as Exhibit A. In his letter, the Attorney General informed Governor Grisham that he would not be defending her administration in this case because it is a “near certainty” that the PHE Order will be found to be unconstitutional by this Court.

II. The State Police Will Nevertheless Enforce the PHE Order

There have been recent media reports that Bernalillo County Sheriff John Allen and Albuquerque Police Chief Harold Medina have declared that they will not

enforce the Carry Prohibition (as that term is defined in the Complaint) in the PHE Order on the ground that it is clearly unconstitutional. Supplemental Declaration of Foster Haines ¶ 3.

However, the Governor’s Office has responded to these reports by insisting that even if local law enforcement refuses to enforce the Carry Prohibition, the State Police will enforce it vigorously. Suppl. Haines Dec. ¶ 4. *See, for example, Source New Mexico, Gov’s Office Promises State Police Will Enforce Gun Ban*, September 11, 2023 (available at <https://sourcenm.com/2023/09/11/govs-office-promises-state-police-will-enforce-gun-ban/>; last visited September 11, 2023). *Id.* In this article, the Governor’s spokesperson stated: “The order is being enforced, and citations will be forthcoming from the State Police.” *Id.*

Based upon the Governor’s assurances that the State Police will enforce the Carry Prohibition even if local law enforcement does not, Plaintiffs continue to fear that they will be issued citations for exercising their constitutional right to lawfully bear arms in public for lawful purposes, including self-defense. Suppl. Haines Dec. ¶ 5.

III. The TRO should Issue Forthwith Ex Parte.

The Attorney General has notice of this case, but he will not be entering an appearance to defend. The Governor also obviously has notice. There is no reason, however, to wait for the Governor to find alternative counsel to enter an appearance. Plaintiffs request the Court enter forthwith the requested temporary restraining

order against enforcement of the obviously and egregiously unconstitutional Carry Provision. Plaintiffs request the Court to enter the order ex parte.

WHEREFORE, Plaintiffs respectfully request forthwith issuance of a temporary restraining order. A proposed order is attached.

Respectfully submitted,

/s/ Jason Bowles

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